

## **CHAPTER 11-2. HOTEL OCCUPANCY TAX.**

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### ***ARTICLE 1. GENERAL PROVISIONS.***

#### **§ 11-2-1 DEFINITIONS.**

In this chapter:

(1) **CONSIDERATION** means the cost of a hotel room only if the room is ordinarily used for sleeping, and does not include the cost of any food served or personal services rendered to the room or a person in the room unless related to the cleaning and readying of the room for occupancy.

(2) DEPARTMENT means the Financial and Administrative Services Department.

(3) HOTEL means a building in which members of the public may obtain sleeping accommodations for consideration. The term includes a hotel, motel, tourist home, tourist house, tourist court, lodging house, inn, rooming house, or other building where a room is furnished for a consideration, but does not include a hospital, sanitarium, or nursing home.

*Source: 1992 Code Section 5-3-1; Ord. 031204-10; Ord. 031211-11.*

#### **§ 11-2-2 TAX LEVIED; EXCEPTIONS.**

(A) A tax of seven percent of the consideration paid for a hotel room is levied on a person who, under a lease, concession, permit, right of access, license, contract, or agreement, pays the consideration for the use or possession or for the right to the use or possession of a hotel room that costs two dollars or more each day and is ordinarily used for sleeping.

(B) This chapter does not impose a tax on:

(1) a person who has the right to use or possess a hotel room for at least 30 consecutive days, so long as there is no interruption of payment for the period; or

(2) the United States, a governmental entity of the United States, or an officer or employee of the United States.

(C) Except as otherwise provided in Section 156.103 (*Exception-State and Federal Government*) of the Texas Tax Code, the State of Texas, or an agency, institution, board, or commission of the State of Texas other than an institution of higher education, as that term is defined by Section 61.003 (*Definitions*) of the Texas Education Code, shall pay the tax imposed by this chapter and is entitled to a refund of the amount of tax paid.

(D) A person entitled to a refund of tax paid under this section shall make an application for a refund according to the rules prescribed by the department in the form prescribed by the department.

*Source: 1992 Code Section 5-3-1 and 5-3-2; Ord. 031204-10; Ord. 031211-11.*

#### **§ 11-2-3 COLLECTION OF TAX GENERALLY.**

(A) A person who owns, operates, manages, or controls a hotel or collects payment for the use or possession or for the right to the use or possession of a hotel room shall collect the tax levied by this chapter for the City.

(B) A person who collects the tax shall deposit the tax proceeds into a separate liability account and may not use the tax proceeds for any purpose other than payment to the City.

*Source: 1992 Code Sections 5-3-2(A) and 5-3-4(B); Ord. 031204-10; Ord. 031211-11.*

#### **§ 11-2-4 QUARTERLY REPORTS; PAYMENTS.**

(A) A quarterly period under this section is based on the City's fiscal year, with the first quarter beginning on October 1 and ending on December 31.

(B) On or before the last day of the month following each quarterly period, a person required to collect the tax imposed under this chapter shall:

(1) file a written report with the department for that quarterly period, with a copy of the report for state hotel occupancy taxes required by Section 156.151 (*Report and Payment*) of the Texas Tax Code for the same quarterly period; and

(2) pay the tax due for the quarter.

(C) A report under this section shall be in the form prescribed by the department and shall include:

(1) the total consideration paid for rooms subject to the tax in the preceding quarter;

(2) the total amount of tax collected; and

(3) the total amount of tax exemptions granted.

(D) If requested by the department, a person responsible for collecting the tax shall provide the department with:

(1) the names, addresses, and identification relied upon to grant an exemption from the tax; and

(2) any other information the department may reasonably require.

(E) The department may request, and a person required to collect the tax shall provide within a reasonable time, additional documentation verifying the information contained in the report to the City.

*Source: 1992 Code Section 5-3-1 and 5-3-4(A); Ord. 031204-10; Ord. 031211-11.*

#### **§ 11-2-5 COLLECTION PROCEDURE ON PURCHASE OF A HOTEL.**

(A) If a hotel owner sells a hotel, the purchaser or his assignee shall withhold an amount of the purchase price sufficient to pay the amount of tax due until the seller provides:

(1) a receipt issued by the department showing that the amount of tax due has been paid; or

(2) a certificate issued by the department showing that no tax is due.

(B) A purchaser of a hotel who fails to withhold the amount of the purchase price as required by this section is liable for the unpaid tax required to be withheld to the extent of the value of the purchase price.

(C) The purchaser of a hotel may file a written request with the department for the issuance of a certificate stating that no tax is due or for a statement of the amount required to be paid before a certificate may be issued. The department shall issue the certificate or statement not later than the 60th day after the date that the department receives the request.

(D) If the department fails to issue the certificate or statement within the period provided by Subsection (C), the purchaser is released from the obligation to withhold the amount of tax from the purchase price or pay the amount of tax due.

*Source: 1992 Code Section 5-3-3(B); Ord. 031204-10; Ord. 031211-11.*

#### **§ 11-2-6 RULES; ACCESS TO RECORDS.**

(A) The department may promulgate rules to effectively collect the tax imposed by this chapter.

(B) Upon reasonable notice, a person responsible for collecting the tax shall give the department access to the records necessary to determine the accuracy of a report filed or the amount of tax due under this chapter.

*Source: 1992 Code Section 5-3-5; Ord. 031204-10; Ord. 031211-11.*

#### **§ 11-2-7 ALLOCATION AND USE OF HOTEL OCCUPANCY TAX REVENUE.**

(A) This section does not apply to taxes collected under Article 2 (*Venue Projects*).

(B) The revenue derived from the tax authorized by this chapter may be used only as provided by Section 351.101 (*Use of Tax Revenue*) of the Texas Tax Code to promote tourism and the convention and hotel industry as follows:

(1) 64-2/7 percent of the funds collected is allocated to the Convention Center Capital Improvement Project Fund and may be used for:

(a) the construction, improvement, enlarging, equipping, repairing, operation, and maintenance of convention center facilities as defined in Section 351.001 (*Definitions*) of the Texas Tax Code; and

(b) the City's provision of facilities, personnel, and materials for the registration of convention delegates or registrants;

(2) 20-5/7 percent of the funds collected is allocated to the Tourism/Promotion Fund and may be used for:

(a) advertising and conducting solicitations and promotional programs to attract tourists and convention delegates or registrants to the City or its vicinity; and

(b) for historical restoration and preservation projects or activities, or advertising and conducting solicitations and promotional programs to encourage tourists and convention delegates to visit preserved historic sites or museums located at or in the immediate vicinity of convention center facilities or elsewhere in the City or its vicinity; and

(3) 15 percent of the funds collected is allocated to the Cultural Arts Fund and may be used for the encouragement, promotion, improvement, and application of the arts, including instrumental and vocal music, dance, drama, folk art, creative writing, architecture, design and allied fields, painting, sculpture, photography, graphic and craft arts, motion pictures, radio, television, tape and sound recording, and other arts related to the presentation, performance, execution, and exhibition of a major art form.

(C) Revenue derived from the tax shall only be expended to directly enhance and promote tourism and the City's convention and hotel industry. Tax revenue may not be used as general revenue for general governmental operations of the City.

*Source: 1992 Code Section 5-3-6; Ord. 031204-10; Ord. 031211-11.*

### **ARTICLE 2. VENUE PROJECTS.**

#### **§ 11-2-11 ADDITIONAL HOTEL TAX.**

(A) In addition to the tax levied under Section 11-2-2 (*Tax Levied, Exceptions*), a tax in the amount of two percent of the consideration paid for a hotel room is levied.

(B) This tax supports the Convention Center/Waller Creek Venue Project approved by the voters at the May 2,

1998 election as authorized under Chapter 334 (*Sports and Community Venues*), Subchapter H (*Hotel Occupancy Taxes*) of the Texas Local Government Code.

(C) Articles 1 (*General Provisions*) and 3 (*Violations*) of this chapter apply to this article except to the extent of a conflict.

*Source: 1992 Code Sections 5-3-11 and 5-3-12; Ord. 031204-10; Ord. 031211-11.*

#### **§ 11-2-12 COLLECTION OF TAX.**

(A) A person required to collect a tax under Article 1 (*General Provisions*) shall also collect the tax imposed by this article.

(B) Each bill or other receipt for a hotel charge that is subject to the tax imposed under this article must conspicuously include the following statement:

“The City of Austin requires an additional tax of two percent be imposed on each hotel charge for the purpose of financing a venue project.”

*Source: 1992 Code Section 5-3-13; Ord. 031204-10; Ord. 031211-11.*

#### **§ 11-2-13 QUARTERLY REPORTS.**

A person required to collect a tax under this article shall include in the quarterly reports required under Section 11-2-4 (*Quarterly Reports; Payments*) the following additional information:

- (1) the amount of the tax collected under this article; and
- (2) other information as required by the department.

*Source: 1992 Code Section 5-3-14; Ord. 031204-10; Ord. 031211-11.*

#### **§ 11-2-14 VENUE PROJECT FUND.**

(A) The department shall establish and maintain a separate Venue Project Fund. The department shall maintain records to account for the receipt and disbursement of:

- (1) proceeds of the taxes collected under this article;
- (2) revenue from the sale of bonds or other obligations related to the Convention Center/Waller Creek Venue Project; and
- (3) other money required by law to be deposited in the Venue Project Fund.

(B) The money in the Venue Project Fund shall be maintained in a depository bank of the City.

*Source: 1992 Code Section 5-3-15; Ord. 031204-10; Ord. 031211-11.*

#### **§ 11-2-15 USE OF REVENUE.**

(A) The funds deposited in the Venue Project Fund may only be used for the following purposes:



(1) to reimburse or pay the costs of planning, acquiring, establishing, developing, constructing, or renovating the Convention Center/Waller Creek Project;

(2) to pay the principal, interest, reserves, and other cost relating to bonds or other obligations issued by the City for the Convention Center/Waller Creek Project, or bonds issued to refund the obligations; or

(3) to pay the costs of operating or maintaining the project.

(B) The collection of the tax shall be discontinued when the bonds or other obligations described in this section are paid in full, unless the tax is continued in accordance with state law.

*Source: 1992 Code Section 5-3-16; Ord. 031204-10; Ord. 031211-11.*

### **ARTICLE 3. VIOLATIONS.**

#### **§ 11-2-21 PENALTIES; INTEREST.**

(A) In addition to the tax imposed under this chapter, a person shall pay a penalty of five percent of the tax due if the person:

- (1) fails to file a report on or before the due date;
- (2) fails to pay the tax imposed on or before the due date; or
- (3) files a report containing false information.

(B) A person who fails to pay any amount of the tax and penalty due under Subsection (A) on or before the 60th day after the tax is due shall pay an additional five percent penalty on the unpaid tax. A delinquency penalty shall not be less than one dollar.

(C) Beginning on the 61st day after the due date, delinquent taxes shall draw interest at a rate of 10 percent per annum.

*Source: 1992 Code Section 5-3-20(A); Ord. 031204-10; Ord. 031211-11.*

#### **§ 11-2-22 OFFENSES.**

(A) A person commits an offense if the person violates or fails to perform an act required by this chapter, or files a report containing false information. Each instance of a violation of this chapter is a separate offense, and each day that a person remains in violation constitutes a separate offense.

(B) An offense under this chapter is a Class C misdemeanor, punishable as provided in Section 1-1-99 (*Offenses; General Penalty*).

*Source: 1992 Code Section 5-3-20(B); Ord. 031204-10; Ord. 031211-11.*

#### **§ 11-2-23 ADDITIONAL ENFORCEMENT AUTHORITY.**

The City may take the following actions against a person who has failed to file a required report, failed to collect the tax imposed, failed to pay the taxes over to the City when due, or filed a false report:

(1) bring suit to collect the unpaid tax or to enjoin the person from operating a hotel in the city until the tax is paid or the report filed, as applicable, as provided by the court's order; and

(2) any other remedy provided under state law.

*Source: 1992 Code Section 5-3-20(C) and 5-3-21; Ord. 031204-10; Ord. 031211-11.*

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## TAX CODE

## TITLE 3. LOCAL TAXATION

## SUBTITLE D. LOCAL HOTEL OCCUPANCY TAXES

## CHAPTER 351. MUNICIPAL HOTEL OCCUPANCY TAXES

## SUBCHAPTER A. IMPOSITION AND COLLECTION OF TAX

Sec. 351.001. DEFINITIONS. In this chapter:

(1) "Municipality" includes any incorporated city, town, or village.

(2) "Convention center facilities" or "convention center complex"

means facilities that are primarily used to host conventions and meetings. The term means civic centers, civic center buildings, auditoriums, exhibition halls, and coliseums that are owned by the municipality or other governmental entity or that are managed in whole or part by the municipality. In a municipality with a population of 1.5 million or more, "convention center facilities" or "convention center complex" means civic centers, civic center buildings, auditoriums, exhibition halls, and coliseums that are owned by the municipality or other governmental entity or that are managed in part by the municipality, hotels owned by the municipality or a nonprofit municipally sponsored local government corporation created under Chapter 431, Transportation Code, within 1,000 feet of a convention center owned by the municipality, or a historic hotel owned by the municipality or a nonprofit municipally sponsored local government corporation created under Chapter 431, Transportation Code, within one mile of a convention center owned by the municipality. The term includes parking areas or facilities that are for the parking or storage of conveyances and that are located at or in the vicinity of other convention center facilities. The term also includes a hotel owned by or located on land that is owned by an eligible central municipality or by a nonprofit corporation acting on behalf of an eligible central municipality and that is located within 1,000 feet of a convention center facility owned by the municipality.

(3) "Eligible coastal municipality" means a home-rule municipality that borders on the Gulf of Mexico and has a population of less than 80,000.

(4) "Hotel" has the meaning assigned by Section 156.001.

(5) "Tourism" means the guidance or management of tourists.

(6) "Tourist" means an individual who travels from the individual's residence to a different municipality, county, state, or country for pleasure, recreation, education, or culture.

(7) "Eligible central municipality" means a municipality with a population of more than 140,000 but less than 1.5 million that is located in a county with a population of one million or more and that has adopted a capital improvement plan for the expansion of an existing convention center facility.

(8) "Visitor information center" or "tourism information center" means a building or a portion of a building used to distribute or disseminate information to tourists.

(9) "Revenue" includes any interest derived from the revenue.

(10) "Revenue" includes any interest derived from the revenue.

(11) "Eligible barrier island coastal municipality" means a municipality:

(A) that borders on the Gulf of Mexico;

(B) that is located wholly on a barrier island; and

(C) the boundaries of which are within 30 miles of the United Mexican States.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1110, Sec. 1, eff. Oct. 1, 1989; Acts 1993, 73rd Leg., ch. 231, Sec. 1, eff. Aug. 30, 1993; Acts 1993, 73rd Leg., ch. 620, Sec. 1, eff. Aug. 30, 1993; Acts 1993, 73rd Leg., ch. 680, Sec. 1, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 17.01(51), eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 454, Sec. 5, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 165, Sec. 30.273, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 495, Sec. 1, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1004, Sec. 1, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1467, Sec. 2.71, eff. Oct. 1, 1999; Acts 2001, 77th Leg., ch. 1308, Sec. 1, eff. June 16, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. [264](#), Sec. 3, eff. May 30, 2009.

Acts 2009, 81st Leg., R.S., Ch. [1220](#), Sec. 1, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. [1271](#), Sec. 1, eff. June 19, 2009.

**Sec. 351.002. TAX AUTHORIZED.** (a) A municipality by ordinance may impose a tax on a person who, under a lease, concession, permit, right of access, license, contract, or agreement, pays for the use or possession or for the right to the use or possession of a room that is in a hotel, costs \$2 or more each day, and is ordinarily used for sleeping.

(b) The price of a room in a hotel does not include the cost of food served by the hotel and the cost of personal services performed by the hotel for the person except for those services related to cleaning and readying the room

for use or possession.

(c) The tax does not apply to a person who is a permanent resident under Section 156.101 of this code.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 328, Sec. 5, eff. Aug. 26, 1991.

Sec. 351.0025. EXTRATERRITORIAL JURISDICTION. (a) A municipality with a population of less than 35,000 by ordinance may impose the tax authorized under Section 351.002 in the municipality's extraterritorial jurisdiction.

(b) The municipality may not impose a tax under this section if as a result of the adoption the combined rate of state, county, and municipal hotel occupancy taxes in the extraterritorial jurisdiction exceeds 15 percent of the price paid for a room in a hotel.

Added by Acts 1991, 72nd Leg., ch. 328, Sec. 3, eff. Aug. 26, 1991. Amended by Acts 1993, 73rd Leg., ch. 680, Sec. 2, eff. Sept. 1, 1993.

Sec. 351.003. TAX RATES. (a) Except as provided by this section, the tax authorized by this chapter may be imposed at any rate not to exceed seven percent of the price paid for a room in a hotel.

(b) The rate in an eligible central municipality may not exceed nine percent of the price paid for a room. This subsection does not apply to a municipality to which Section 351.106 applies or to an eligible central municipality with a population of less than 440,000.

(c) The rate in a municipality that borders on the Gulf of Mexico and has a population of more than 250,000 or in a municipality with a population of less than 5,000 adjacent to a home-rule city with a population of less than 80,000 may not exceed nine percent of the price paid for a room.

(d) The rate in an eligible barrier island coastal municipality may not exceed 8-1/2 percent of the price paid for a room.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 14.23(a), eff. Aug. 28, 1989; Acts 1993, 73rd Leg., ch. 620, Sec. 2, eff. Aug. 30, 1993; Acts 1999, 76th Leg., ch. 825, Sec. 1, eff. June 18, 1999; Acts 2001, 77th Leg., ch. 1308, Sec. 2, eff. June 16, 2001; Acts 2003, 78th Leg., ch. 247, Sec. 2, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 382, Sec. 1, 3, eff. June 18, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. [1220](#), Sec. 2, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. [1271](#), Sec. 2, eff. June 19, 2009.

For expiration of this section, see Subsection (d).

Sec. 351.0035. TAX RATE AND USE IN CERTAIN MUNICIPALITIES. (a) The tax imposed by this chapter in a home-rule municipality that was originally chartered in or after 1938, that is home to a major state university, and that is located in a county bordered by the Brazos and Navasota Rivers, may be imposed at any rate not to exceed 7.75 percent of the price paid for a room in a hotel.

(b) The municipality shall allocate for the construction of a convention center in the municipality all revenue received by the municipality that is derived from the application of the tax at a rate of more than seven percent of the price paid for a room in a hotel.

(c) The municipality may not increase the rate of the tax to a rate above seven percent before the date the municipality executes a contract for the construction of the convention center.

(d) This section expires on the date the governing body of the municipality certifies that all debt relating to the convention center payable from the tax, including interest and any costs relating to the debt, has been paid in full or a deposit has been made and an escrow agreement in relation to the debt has been executed.

Added by Acts 2009, 81st Leg., R.S., Ch. [1057](#), Sec. 1, eff. June 19, 2009.

Sec. 351.004. TAX COLLECTION. (a) The municipal attorney or other attorney acting for the municipality may bring suit against a person who is required to collect the tax imposed by this chapter and pay the collections over to the municipality and who has failed to file a tax report or pay the tax when due to collect the tax not paid or to enjoin the person from operating a hotel in the municipality until the tax is paid or the report filed, as applicable, as provided by the court's order. In addition to the amount of any tax owed under this chapter, the person is liable to the municipality for:

- (1) the municipality's reasonable attorney's fees;
- (2) the costs of an audit conducted under Subsection (a-1)(1), as determined by the municipality using a reasonable rate, but only if the tax has been delinquent for at least two complete municipal fiscal quarters at the time the audit is conducted; and
- (3) a penalty equal to 15 percent of the total amount of the tax

owed.

(a-1) If a person required to file a tax report under this chapter does not file the report as required by the municipality, the municipal attorney or other attorney acting for the municipality may determine the amount of tax due under this chapter by:

- (1) conducting an audit of each hotel in relation to which the person did not file the report as required by the municipality; or
- (2) using the tax report filed for the appropriate reporting period under Section 156.151 in relation to that hotel.

(a-2) If the person did not file a tax report under Section 156.151 for that reporting period in relation to that hotel, the municipal attorney or other attorney acting for the municipality may estimate the amount of tax due by using the tax reports in relation to that hotel filed during the previous calendar year under this chapter or Section 156.151. An estimate made under this subsection is prima facie evidence of the amount of tax due for that period in relation to that hotel.

(a-3) The authority to conduct an audit under this section is in addition to any other audit authority provided by statute, charter, or ordinance.

(b) Section 16.061, Civil Practice and Remedies Code, applies to the collection of a tax under this chapter. A limitation period provided by Title 2 relating to the time allowed to assess taxes and bring a suit to collect taxes does not apply to a tax imposed under this chapter or to a suit brought under this section.

(c) A municipality by ordinance may authorize misdemeanor punishment for a violation of an ordinance adopted under this chapter.

(d) The remedies provided by this section are in addition to other available remedies.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1110, Sec. 2, eff. Oct. 1, 1989; Acts 1993, 73rd Leg., ch. 259, Sec. 1.

Amended by:

Acts 2005, 79th Leg., Ch. [488](#), Sec. 1, eff. September 1, 2005.

Sec. 351.0041. COLLECTION PROCEDURES ON PURCHASE OF HOTEL. (a) If a person who is liable for the payment of a tax under this chapter is the owner of a hotel and sells the hotel, the successor to the seller or the seller's assignee shall withhold an amount of the purchase price sufficient to pay the amount due until the seller provides a receipt by a person designated by the



municipality to provide the receipt showing that the amount has been paid or a certificate showing that no tax is due.

(b) The purchaser of a hotel who fails to withhold an amount of the purchase price as required by this section is liable for the amount required to be withheld to the extent of the value of the purchase price.

(c) The purchaser of a hotel may request that the person designated by the municipality to provide a receipt under Subsection (a) issue a certificate stating that no tax is due or issue a statement of the amount required to be paid before a certificate may be issued. The person designated by the municipality shall issue the certificate or statement not later than the 60th day after the date that the person receives the request.

(d) If the person designated by the municipality to provide a receipt under Subsection (a) fails to issue the certificate or statement within the period provided by Subsection (c), the purchaser is released from the obligation to withhold the purchase price or pay the amount due.

Added by Acts 1991, 72nd Leg., ch. 328, Sec. 1, eff. Aug. 26, 1991.

Sec. 351.005. REIMBURSEMENT FOR TAX COLLECTION EXPENSES. (a) A municipality may permit a person who is required to collect and pay over to the municipality the tax authorized by this chapter not more than one percent of the amount collected and required to be reported as reimbursement to the person for the costs in collecting the tax.

(b) The municipality may provide that the reimbursement provided by this section be forfeited because of a failure to pay the tax or to file a report as required by the municipality.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.

Sec. 351.006. EXEMPTION. (a) A United States governmental entity described in Section 156.103(a) is exempt from the payment of tax authorized by this chapter.

(b) A state governmental entity described in Section 156.103(b) shall pay the tax imposed by this chapter but is entitled to a refund of the tax paid.

(c) A person who is described by Section 156.103(d) is exempt from the payment of the tax authorized by this chapter.

(d) A person who is described by Section 156.103(c) shall pay the tax imposed by this chapter but the state governmental entity with whom the person is associated is entitled to a refund of the tax paid.

(e) To receive a refund of tax paid under this chapter, the governmental entity entitled to the refund must file a refund claim on a form provided by the municipality and containing the information required by the municipality. The comptroller by rule shall prescribe the form that must be used and the information that must be provided.

(f) A governmental entity may file a refund claim with the municipality under this chapter only for each calendar quarter for all reimbursements accrued during that quarter. The municipality may adopt an ordinance to enforce this section.

(g) The right to use or possess a room in a hotel is exempt from taxation under this chapter if the person required to collect the tax receives, in good faith from a guest, an exemption certificate stating qualification for an exemption provided in Subsection (c). The exemption must be supported by the documentation required under rules adopted by the comptroller and the municipality.

Added by Acts 1989, 71st Leg., ch. 504, Sec. 2, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 454, Sec. 6, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1467, Sec. 2.72, eff. Oct. 1, 1999; Acts 2003, 78th Leg., ch. 209, Sec. 87, eff. Oct. 1, 2003.

Sec. 351.007. PREEXISTING CONTRACTS. If a municipality increases the rate of the tax authorized by this chapter, the increased tax rate does not apply to the tax imposed on the use or possession of a room under a contract executed before October 1, 1989, that provides for the payment of the tax at the rate in effect when the contract was executed, unless the contract is subject to change or modification by reason of the tax rate increase. The tax rate applicable to the use or possession of a room under the contract is the rate in effect when the contract was executed.

Added by Acts 1989, 71st Leg., ch. 1110, Sec. 3, eff. Oct. 1, 1989.

#### SUBCHAPTER B. USE AND ALLOCATION OF REVENUE

##### Sec. 351.101. USE OF TAX REVENUE.

Text of subsection as amended by Acts 2009, 81st Leg., R.S., Ch. [402](#), Sec. 1

(a) Revenue from the municipal hotel occupancy tax may be used only to



promote tourism and the convention and hotel industry, and that use is limited to the following:

(1) the acquisition of sites for and the construction, improvement, enlarging, equipping, repairing, operation, and maintenance of convention center facilities or visitor information centers, or both;

(2) the furnishing of facilities, personnel, and materials for the registration of convention delegates or registrants;

(3) advertising and conducting solicitations and promotional programs to attract tourists and convention delegates or registrants to the municipality or its vicinity;

(4) the encouragement, promotion, improvement, and application of the arts, including instrumental and vocal music, dance, drama, folk art, creative writing, architecture, design and allied fields, painting, sculpture, photography, graphic and craft arts, motion pictures, radio, television, tape and sound recording, and other arts related to the presentation, performance, execution, and exhibition of these major art forms;

(5) historical restoration and preservation projects or activities or advertising and conducting solicitations and promotional programs to encourage tourists and convention delegates to visit preserved historic sites or museums:

(A) at or in the immediate vicinity of convention center facilities or visitor information centers; or

(B) located elsewhere in the municipality or its vicinity that would be frequented by tourists and convention delegates;

(6) for a municipality located in a county with a population of one million or less, expenses, including promotion expenses, directly related to a sporting event in which the majority of participants are tourists who substantially increase economic activity at hotels and motels within the municipality or its vicinity;

(7) subject to Section 351.1076, the promotion of tourism by the enhancement and upgrading of existing sports facilities or fields, including facilities or fields for baseball, softball, soccer, and flag football, if:

(A) the municipality owns the facilities or fields;

(B) the municipality:

(i) has a population of 80,000 or more and is located in a county that has a population of 350,000 or less;

(ii) has a population of at least 65,000 but not more than 70,000 and is located in a county that has a population of 155,000 or less;

(iii) has a population of at least 34,000 but not more

than 36,000 and is located in a county that has a population of 90,000 or less;

(iv) has a population of at least 13,000 but less than 39,000 and is located in a county that has a population of at least 200,000;

(v) has a population of at least 65,000 but less than 80,000 and no part of which is located in a county with a population greater than 150,000; or

(vi) is located in a county that:

(a) is adjacent to the Texas-Mexico border;

(b) has a population of at least 500,000; and

(c) does not have a municipality with a population greater than 500,000; and

(C) the sports facilities and fields have been used, in the preceding calendar year, a combined total of more than 10 times for district, state, regional, or national sports tournaments; and

(8) for a municipality with a population of at least 65,000 but less than 80,000, no part of which is located in a county with a population greater than 150,000, the construction, improvement, enlarging, equipping, repairing, operation, and maintenance of a coliseum or multiuse facility.

Text of subsection as amended by Acts 2009, 81st Leg., R.S., Ch. [1220](#), Sec. 3

(a) Revenue from the municipal hotel occupancy tax may be used only to promote tourism and the convention and hotel industry, and that use is limited to the following:

(1) the acquisition of sites for and the construction, improvement, enlarging, equipping, repairing, operation, and maintenance of convention center facilities or visitor information centers, or both;

(2) the furnishing of facilities, personnel, and materials for the registration of convention delegates or registrants;

(3) advertising and conducting solicitations and promotional programs to attract tourists and convention delegates or registrants to the municipality or its vicinity;

(4) the encouragement, promotion, improvement, and application of the arts, including instrumental and vocal music, dance, drama, folk art, creative writing, architecture, design and allied fields, painting, sculpture, photography, graphic and craft arts, motion pictures, radio, television, tape and sound recording, and other arts related to the presentation, performance,

execution, and exhibition of these major art forms;

(5) historical restoration and preservation projects or activities or advertising and conducting solicitations and promotional programs to encourage tourists and convention delegates to visit preserved historic sites or museums:

(A) at or in the immediate vicinity of convention center facilities or visitor information centers; or

(B) located elsewhere in the municipality or its vicinity that would be frequented by tourists and convention delegates;

(6) for a municipality located in a county with a population of one million or less, expenses, including promotion expenses, directly related to a sporting event in which the majority of participants are tourists who substantially increase economic activity at hotels and motels within the municipality or its vicinity;

(7) subject to Section 351.1076, the promotion of tourism by the enhancement and upgrading of existing sports facilities or fields, including facilities or fields for baseball, softball, soccer, and flag football, if:

(A) the municipality owns the facilities or fields;

(B) the municipality:

(i) has a population of 80,000 or more and is located in a county that has a population of 350,000 or less;

(ii) has a population of at least 65,000 but not more than 70,000 and is located in a county that has a population of 155,000 or less; or

(iii) has a population of at least 34,000 but not more than 36,000 and is located in a county that has a population of 90,000 or less; and

(C) the sports facilities and fields have been used, in the preceding calendar year, a combined total of more than 10 times for district, state, regional, or national sports tournaments; and

(8) signage directing the public to sights and attractions that are visited frequently by hotel guests in the municipality.

Text of subsection as amended by Acts 2009, 81st Leg., R.S., Ch. [1322](#), Sec. 1

(a) Revenue from the municipal hotel occupancy tax may be used only to promote tourism and the convention and hotel industry, and that use is limited to the following:

(1) the acquisition of sites for and the construction, improvement,

enlarging, equipping, repairing, operation, and maintenance of convention center facilities or visitor information centers, or both;

(2) the furnishing of facilities, personnel, and materials for the registration of convention delegates or registrants;

(3) advertising and conducting solicitations and promotional programs to attract tourists and convention delegates or registrants to the municipality or its vicinity;

(4) the encouragement, promotion, improvement, and application of the arts, including instrumental and vocal music, dance, drama, folk art, creative writing, architecture, design and allied fields, painting, sculpture, photography, graphic and craft arts, motion pictures, radio, television, tape and sound recording, and other arts related to the presentation, performance, execution, and exhibition of these major art forms;

(5) historical restoration and preservation projects or activities or advertising and conducting solicitations and promotional programs to encourage tourists and convention delegates to visit preserved historic sites or museums:

(A) at or in the immediate vicinity of convention center facilities or visitor information centers; or

(B) located elsewhere in the municipality or its vicinity that would be frequented by tourists and convention delegates;

(6) for a municipality located in a county with a population of one million or less, expenses, including promotion expenses, directly related to a sporting event in which the majority of participants are tourists who substantially increase economic activity at hotels and motels within the municipality or its vicinity;

(7) subject to Section 351.1076, the promotion of tourism by the enhancement and upgrading of existing sports facilities or fields, including facilities or fields for baseball, softball, soccer, and flag football, if:

(A) the municipality owns the facilities or fields;

(B) the municipality:

(i) has a population of 80,000 or more and is located in a county that has a population of 350,000 or less;

(ii) has a population of at least 65,000 but not more than 70,000 and is located in a county that has a population of 155,000 or less; or

(iii) has a population of at least 34,000 but not more than 36,000 and is located in a county that has a population of 90,000 or less; and

(C) the sports facilities and fields have been used, in the

preceding calendar year, a combined total of more than 10 times for district, state, regional, or national sports tournaments; and

(8) the construction of a recreational venue in the immediate vicinity of area hotels, if:

(A) the municipality:

(i) is a general-law municipality;

(ii) has a population of not more than 900; and

(iii) does not impose an ad valorem tax;

(B) not more than \$100,000 of municipal hotel occupancy tax revenue is used for the construction of the recreational venue;

(C) a majority of the hotels in the municipality request the municipality to construct the recreational venue;

(D) the recreational venue will be used primarily by hotel guests; and

(E) the municipality will pay for maintenance of the recreational venue from the municipality's general fund.

(b) Revenue derived from the tax authorized by this chapter shall be expended in a manner directly enhancing and promoting tourism and the convention and hotel industry as permitted by Subsection (a). That revenue may not be used for the general revenue purposes or general governmental operations of a municipality.

(c) The governing body of a municipality by contract may delegate to a person, including another governmental entity or a private organization, the management or supervision of programs and activities funded with revenue from the tax authorized by this chapter. The governing body in writing shall approve in advance the annual budget of the person to which it delegates those functions and shall require the person to make periodic reports to the governing body at least quarterly listing the expenditures made by the person with revenue from the tax authorized by this chapter. The person must maintain revenue provided from the tax authorized by this chapter in a separate account established for that purpose and may not commingle that revenue with any other money. The municipality may not delegate to any person the management or supervision of its convention and visitors programs and activities funded with revenue from the tax authorized by this chapter other than by contract as provided by this subsection. The approval by the governing body of the municipality of the annual budget of the person to whom the governing body delegates those functions creates a fiduciary duty in the person with respect to the revenue provided by the tax authorized by this chapter.

(d) A person with whom a municipality contracts under this section to

conduct an activity authorized by this section shall maintain complete and accurate financial records of each expenditure of hotel occupancy tax revenue made by the person and, on request of the governing body of the municipality or other person, shall make the records available for inspection and review to the governing body or other person.

(e) Hotel occupancy tax revenue spent for a purpose authorized by this section may be spent for day-to-day operations, supplies, salaries, office rental, travel expenses, and other administrative costs only if those administrative costs are incurred directly in the promotion and servicing expenditures authorized under Section 351.101(a). If a municipal or other public or private entity that conducts an activity authorized under this section conducts other activities that are not authorized under this section, the portion of the total administrative costs of the entity for which hotel occupancy tax revenue may be used may not exceed the portion of those administrative costs actually incurred in conducting the authorized activities.

(f) Municipal hotel occupancy tax revenue may not be spent for travel for a person to attend an event or conduct an activity the primary purpose of which is not directly related to the promotion of tourism and the convention and hotel industry or the performance of the person's job in an efficient and professional manner.

(g) Nothing in this section shall prohibit any private entity, person, or organization from making subgrants by contract to any other person, entity, or private organization for expenditures under Section 351.101(a)(4). A subgrantee shall:

(1) at least annually make periodic reports to the governing body of its expenditures from the tax authorized by this chapter; and

(2) make records of these expenditures available for review to the governing body or other person.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 14.24(a), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 1110, Sec. 4, eff. Oct. 1, 1989; Acts 1993, 73rd Leg., ch. 680, Sec. 3, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 1027, Sec. 1, eff. Aug. 28, 1995; Acts 2001, 77th Leg., ch. 755, Sec. 1, eff. June 13, 2001; Acts 2001, 77th Leg., ch. 1308, Sec. 3, eff. June 16, 2001; Acts 2003, 78th Leg., ch. 209, Sec. 90, eff. Oct. 1, 2003; Acts 2003, 78th Leg., ch. 303, Sec. 1, eff. June 18, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. [1247](#), Sec. 1, eff. June 18, 2005.



Acts 2007, 80th Leg., R.S., Ch. [1144](#), Sec. 1, eff. June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. [402](#), Sec. 1, eff. June 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. [1220](#), Sec. 3(a), eff. June 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. [1322](#), Sec. 1, eff. June 19, 2009.

Sec. 351.102. PLEDGE FOR BONDS. (a) Subject to the limitations provided by this subchapter, a municipality may pledge the revenue derived from the tax imposed under this chapter for the payment of bonds that are issued under Section 1504.002(a), Government Code, for one or more of the purposes provided by Section 351.101 or, in the case of a municipality of 1,500,000 or more, for the payment of principal of or interest on bonds or other obligations of a municipally sponsored local government corporation created under Chapter 431, Transportation Code, that were issued to pay the cost of the acquisition and construction of a convention center hotel or the cost of acquisition, remodeling, or rehabilitation of a historic hotel structure; provided, however, such pledge may only be that portion of the tax collected at such hotel.

(b) An eligible central municipality or a municipality with a population of 173,000 or more that is located within two counties may pledge the revenue derived from the tax imposed under this chapter from a hotel project that is owned by or located on land owned by the municipality or, in an eligible central municipality, by a nonprofit corporation acting on behalf of an eligible central municipality, and that is located within 1,000 feet of a convention center facility owned by the municipality for the payment of bonds or other obligations issued or incurred to acquire, lease, construct, and equip the hotel and any facilities ancillary to the hotel, including convention center entertainment-related facilities, restaurants, shops, and parking facilities within 1,000 feet of the hotel or convention center facility. For bonds or other obligations issued under this subsection, an eligible central municipality or a municipality with a population of 173,000 or more that is located within two counties may only pledge revenue or other assets of the hotel project benefiting from those bonds or other obligations.

(b-1) A municipality with a population of 173,000 or more that is located within two counties and is not an eligible central municipality may not pledge revenue under Subsection (b) in relation to a particular hotel project after the earlier of:

(1) the 20th anniversary of the date the municipality first pledged the revenue to the hotel project; or

(2) the date the revenue pledged to the hotel project equals 40 percent of the hotel project's total construction cost.



(c) A municipality to which Subsection (b) applies is entitled to receive all funds from a project described by this section that an owner of a project may receive under Section 151.429(h) of this code, or Section 2303.5055, Government Code, and may pledge the funds for the payment of obligations issued under this section.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 231, Sec. 3, eff. Aug. 30, 1993; Acts 1997, 75th Leg., ch. 165, Sec. 30.274, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1004, Sec. 2, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1308, Sec. 4, eff. June 16, 2001; Acts 2001, 77th Leg., ch. 1420, Sec. 8.365, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 209, Sec. 91, eff. Oct. 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 519, Sec. 1, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1087, Sec. 3, eff. June 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1220, Sec. 4, eff. September 1, 2009.

Sec. 351.103. ALLOCATION OF REVENUE: GENERAL RULE. (a) At least 50 percent of the hotel occupancy tax revenue collected by a municipality with a population of 200,000 or greater must be allocated for the purposes provided by Section 351.101(a)(3). For municipalities with a population of less than 200,000, allocations for the purposes provided by Section 351.101(a)(3) are as follows:

(1) if the tax rate in a municipality is not more than three percent of the cost paid for a room, not less than the amount of revenue received by the municipality from the tax at a rate of one-half of one percent of the cost of the room; or

(2) if the tax in a municipality exceeds three percent of the cost of a room, not less than the amount of revenue received by the municipality from the tax at a rate of one percent of the cost of a room. This subsection does not apply to a municipality, regardless of population, that before October 1, 1989, adopted an ordinance providing for the allocation of an amount in excess of 50 percent of the hotel occupancy tax revenue collected by the municipality for one or more specific purposes provided by Section 351.101(a)(1) until the ordinance is repealed or expires or until the revenue is no longer used for those specific purposes in an amount in excess of 50 percent of the tax revenue.

(b) Subsection (a) does not apply to a municipality in a fiscal year of the municipality if the total amount of hotel occupancy tax collected by the municipality in the most recent calendar year that ends at least 90 days before

the date the fiscal year begins exceeds \$2 million. A municipality excepted from the application of Subsection (a) by this subsection shall allocate hotel occupancy tax revenue by ordinance, consistent with the other limitations of this section. The portion of the tax revenue allocated by a municipality with a population of more than 1.6 million for the purposes provided by Section 351.101(a)(3) may not be less than 23 percent, except that the allocation is subject to and may not impair the authority of the municipality to:

(1) pledge all or any portion of that tax revenue to the payment of bonds as provided by Section 351.102(a) or bonds issued to refund bonds secured by that pledge; or

(2) spend all or any portion of that tax revenue for the payment of operation and maintenance expenses of convention center facilities.

(c) Not more than 15 percent of the hotel occupancy tax revenue collected by a municipality, other than a municipality having a population of more than 1.6 million, or the amount of tax received by the municipality at the rate of one percent of the cost of a room, whichever is greater, may be used for the purposes provided by Section 351.101(a)(4). Not more than 19.30 percent of the hotel occupancy tax revenue collected by a municipality having a population of more than 1.6 million, or the amount of tax received by the municipality at the rate of one percent of the cost of a room, whichever is greater, may be used for the purposes provided by Section 351.101(a)(4). Not more than 15 percent of the hotel occupancy tax revenue collected by a municipality having a population of more than 125,000 may be used for the purposes provided by Section 351.101(a)(5).

(d) A municipality that does not allocate any hotel occupancy tax revenue for the purposes provided by Section 351.101(a)(1) may allocate not more than 50 percent of the hotel occupancy tax revenue collected by the municipality for the purposes provided by Section 351.101(a)(5). A municipality that before October 1, 1989, adopts an ordinance providing for the allocation of an amount in excess of 50 percent of the hotel occupancy tax revenue collected by the municipality for one or more specific purposes provided by Section 351.101(a)(5) may allocate the tax revenue as provided by that ordinance until the ordinance is repealed or expires or until the revenue is no longer used for those specific purposes.

(e) A municipality may use hotel occupancy tax revenue collected by the municipality for a purpose provided by Section 351.101(a)(1) only if the municipality complies with the applicable provisions of this section.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 14.24(b), eff. Aug. 28, 1989; Acts 1989, 71st

Leg., ch. 1110, Sec. 6, eff. Oct. 1, 1989; Acts 1993, 73rd Leg., ch. 153, Sec. 1, eff. Aug. 30, 1993; Acts 1993, 73rd Leg., ch. 680, Sec. 5, eff. Sept. 1, 1993; Acts 2001, 77th Leg., ch. 1308, Sec. 5, eff. June 16, 2001.

Sec. 351.1035. ALLOCATION OF REVENUE: CERTAIN MUNICIPALITIES IN BORDER COUNTIES. (a) This section applies only to a municipality that is the largest municipality in a county described by Section 352.002(a)(14).

(b) At least 50 percent of the hotel occupancy tax revenue collected by a municipality described by Subsection (a) must be allocated for the purposes provided by Section 351.101(a)(3).

(c) Not more than 15 percent of the hotel occupancy tax revenue collected by a municipality described by Subsection (a) may be used for the purposes provided by Section 351.101(a)(4).

(d) Not more than 15 percent of the hotel occupancy tax revenue collected by a municipality described by Subsection (a) may be used for the purposes provided by Section 351.101(a)(5).

Added by Acts 2003, 78th Leg., ch. 303, Sec. 2, eff. June 18, 2003.

Sec. 351.104. ALLOCATION OF REVENUE: CERTAIN MUNICIPALITIES BORDERING BAYS. (a) This section applies only to a home-rule municipality that borders a bay, that has a population of less than 80,000, and that is not an eligible coastal municipality.

(b) In this section:

(1) "Adjacent public land" means land that:

(A) is owned by this state or a local governmental entity; and

(B) is located adjacent to a bay that is bordered by a

municipality to which this section applies.

(2) "Clean and maintain" means the collection and removal of litter and debris and the supervision and elimination of sanitary and safety conditions that would pose a threat to personal health or safety if not removed or otherwise corrected.

(c) Notwithstanding any other provision of this chapter and subject to Subsections (d) and (e), a municipality to which this section applies may use not more than 10 percent of the revenue derived from the tax imposed under this chapter:

(1) for a purpose described by Section 351.105(a)(1) or (2);

(2) to clean and maintain adjacent public land; or

(3) to mitigate coastal erosion on adjacent public land.

(d) A municipality to which this section applies may not reduce the amount of revenue that it uses for a purpose described by Section 351.101(a)(3) to an amount that is less than the average amount of revenue used by the municipality for that purpose during the 36-month period that precedes the municipality's use of revenue under Subsection (c).

(e) A municipality that uses revenue from the tax imposed under this chapter for a purpose provided by this section must spend the same amount of revenue for the same purpose from a source other than that tax.

Acts 2003, 78th Leg., ch. 699, Sec. 1, eff. Sept. 1, 2003.

Sec. 351.105. ALLOCATION OF REVENUE: ELIGIBLE COASTAL MUNICIPALITIES.

(a) An eligible coastal municipality that levies and collects an occupancy tax authorized by this chapter at a rate of seven percent shall pledge a portion of the revenue equal to at least one percent of the cost of a room to either or both of the following purposes:

(1) the payment of the bonds that the municipality or a park board of trustees may issue under Section 1504.002(a), Government Code, or under Chapter 306, Local Government Code, in order to provide all or part of the funds for the establishment, acquisition, purchase, construction, improvement, enlargement, equipment, or repair of public improvements, including parks, civic centers, civic center buildings, auditoriums, exhibition halls, coliseums, marinas, cruise ship terminal facilities, hotels, motels, parking facilities, golf courses, trolley or trolley transportation systems, and other facilities as may be considered advisable in connection with these facilities that serve the purpose of attracting visitors and tourists to the municipality; or

(2) the maintenance, improvement, or operation of the parks, civic centers, civic center buildings, auditoriums, exhibition halls, coliseums, marinas, cruise ship terminal facilities, hotels, motels, parking facilities, golf courses, trolley or trolley transportation systems, and other facilities as may be considered advisable in connection with these facilities that serve the purpose of attracting visitors and tourists to the municipality.

(b) If the tax authorized by this chapter is imposed by an eligible coastal municipality at a rate of four or more percent of the cost of a room, no lesser amount than the amount of revenue derived from the application of the tax at a rate of three percent of the cost of a room shall be used for the purpose provided by Section 351.101(a)(3).

(c) If the tax authorized by this chapter is imposed by an eligible coastal municipality at a rate of five or more percent of the cost of a room, no

lesser amount than the amount of revenue derived from the application of the tax at a rate of one percent shall be used for beach patrol, lifeguard services, marine water safety, and park law enforcement.

(d) If the tax authorized by this chapter is imposed by an eligible coastal municipality at a rate of six or more percent, no lesser amount than the amount of revenue derived from the application of the tax at a rate of one percent of the cost of a room shall be used as matching funds for state funds available to clean and maintain public beaches and for other public beach-cleaning funds.

(e) Money received under Section 156.2511 and used to clean and maintain beaches is included in determining whether the municipality has met the funding obligation prescribed by Subsections (c) and (d), and the municipality may credit that money against the funding requirements prescribed by Subsections (c) and (d).

(f) An eligible coastal municipality and a park board of trustees created by the municipality may:

(1) contract for the park board to use the tax authorized by this chapter as provided by this section; and

(2) without further authorization, use the tax authorized by this chapter as provided by this section, including for the purpose of issuing bonds or entering into other agreements.

(g) The following statutes prevail over any conflicting provision in the charter of an eligible coastal municipality:

(1) this section;

(2) Chapter 306, Local Government Code; and

(3) Subchapter A, Chapter 1504, Government Code.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 680, Sec. 6, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 15.02, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 454, Sec. 7, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 298, Sec. 1, eff. May 29, 1999; Acts 2001, 77th Leg., ch. 1420, Sec. 8.367, eff. Sept. 1, 2001.

Sec. 351.1055. ALLOCATION OF REVENUE: CERTAIN MUNICIPALITIES. (a) In this section:

(1) "Clean and maintain" has the meaning assigned by Section 61.063, Natural Resources Code.

(2) "Public beach" has the meaning assigned by Section 61.001, Natural Resources Code.



(3) "Beach security" means beach patrol, lifeguard services, marine water safety, and park law enforcement.

(4) "Erosion response project" has the meaning assigned by Section 33.601, Natural Resources Code.

(b) Notwithstanding any other provision of this chapter, a home-rule municipality that borders on the Gulf of Mexico and has a population of more than 250,000 may use all or any portion of the revenue derived from the municipal hotel occupancy tax from hotels in an area previously subject to a county hotel occupancy tax and located on an island bordering the Gulf of Mexico to clean and maintain public beaches in the municipality.

(c) Notwithstanding any other provision of this chapter, a municipality that has a population of less than 5,000 adjacent to a home-rule city with a population of less than 80,000 may use all or any portion of the revenue heretofore or hereafter derived from the municipal hotel tax:

- (1) to clean and maintain the beaches in the municipality;
- (2) to provide beach security within the municipality;
- (3) for any of the purposes permitted or allowed by Section 1504.001, Government Code;
- (4) for any purpose allowed by Section 351.105; or
- (5) to pay the principal of or interest on bonds or notes issued for any of these purposes.

(d) Notwithstanding any other provision of this chapter and except as provided by Subsection (e), an eligible barrier island coastal municipality shall use at least the amount of revenue derived from the application of the tax at a rate of seven percent of the cost of a room for the purposes authorized under Sections 351.101(a)(1) and (3).

(e) An eligible barrier island coastal municipality that imposes the tax at a rate equal to or greater than 7-1/2 percent of the price paid for a room shall use at least the amount of revenue derived from the application of the tax at a rate of one-half of one percent of the cost of a room for erosion response projects.

Added by Acts 1999, 76th Leg., ch. 1359, Sec. 3, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 117, Sec. 1, eff. July 1, 2003; Acts 2003, 78th Leg., ch. 247, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. [1271](#), Sec. 3, eff. June 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. [1271](#), Sec. 4, eff. June 19, 2009.

Sec. 351.106. ALLOCATION OF REVENUE: POPULOUS MUNICIPALITIES WITH COUNCIL-MANAGER GOVERNMENT. (a) A municipality that has a population of 1.18 million or more and that has adopted a council-manager form of government shall use the amount of revenue from the tax that is derived from the application of the tax at a rate of more than four percent of the cost of a room as follows:

(1) no more than 55 percent to:

(A) constructing, improving, enlarging, equipping, and repairing the municipality's convention center complex; or

(B) pledging payment of revenue bonds and revenue refunding bonds issued under Subchapter A, Chapter 1504, Government Code, for the municipality's convention center complex; and

(2) at least 45 percent for the purposes provided by Section 351.101

(a)(3).

(b) Revenue received by a municipality described by Subsection (a) from the application of the tax at a rate of four percent or less may be used as provided by Section 351.101.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 14.23(b), eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 597, Sec. 108, eff. Sept. 1, 1991; Acts 2001, 77th Leg., ch. 669, Sec. 123, 124, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1420, Sec. 8.368, eff. Sept. 1, 2001.

Sec. 351.1065. ALLOCATION OF REVENUE: ELIGIBLE CENTRAL MUNICIPALITY.

(a) An eligible central municipality shall use the amount of revenue from the tax that is derived from the application of the tax at a rate of more than seven percent of the cost of a room only for:

(1) the construction of an expansion of an existing convention center facility; and

(2) pledging payment of revenue bonds and revenue refunding bonds issued under Subchapter A, Chapter 1504, Government Code, for the construction of the expansion.

(b) Any interest income derived from the application of the tax at a rate of more than seven percent of the cost of a room may be used only for the purposes provided by this section.

(c) An eligible central municipality expending tax revenue under this section shall attempt to include minority-owned businesses in the issuance of at least 32 percent of the total dollar value of the bonds issued, and in at least 32 percent of the total fees paid by the issuer, in connection with the



construction.

Added by Acts 1993, 73rd Leg., ch. 620, Sec. 3, eff. Aug. 30, 1993. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.369, eff. Sept. 1, 2001.

Sec. 351.107. ALLOCATION OF REVENUE; CERTAIN LARGE COASTAL MUNICIPALITIES. (a) This section applies only to a municipality that borders on the Gulf of Mexico and has a population of more than 250,000.

(b) A municipality to which this section applies shall separately account for all revenue derived from the application of the tax imposed by this chapter at a rate of more than seven percent of the cost of a room.

(c) Subject to Subsection (e), revenue described by Subsection (b) may be used only for:

- (1) acquiring land for a municipally owned convention center;
- (2) constructing, improving, enlarging, equipping, repairing, operating, and maintaining a municipally owned convention center; and
- (3) paying bonds used to finance activities described by Subdivision (1) or (2).

(d) For the purpose of the allocation of revenue under Section 351.103, revenue described by Subsection (b) is not counted.

(e) Notwithstanding any other provision of this chapter, a municipality to which this section applies may use all or any portion of the revenue derived from the municipal hotel occupancy tax from hotels in an area previously subject to a county hotel occupancy tax and located on an island bordering the Gulf of Mexico to clean and maintain public beaches in the municipality.

(f) In this section:

- (1) "Clean and maintain" has the meaning assigned by Section 61.063, Natural Resources Code.
- (2) "Public beach" has the meaning assigned by Section 61.001, Natural Resources Code.

Added by Acts 1999, 76th Leg., ch. 825, Sec. 2, eff. June 18, 1999. Amended by Acts 2003, 78th Leg., ch. 117, Sec. 2, eff. July 1, 2003.

Sec. 351.1076. ALLOCATION OF REVENUE: CERTAIN MUNICIPALITIES. (a) A municipality that spends municipal hotel occupancy tax revenue for the enhancement and upgrading of existing sports facilities or fields as authorized by Section 351.101(a)(7):

- (1) shall determine the amount of municipal hotel occupancy tax

revenue generated for the municipality by hotel activity attributable to the sports events and tournaments held on the enhanced or upgraded facilities or fields for five years after the date the enhancements and upgrades are completed; and

(2) may not spend hotel occupancy tax revenue for the enhancement and upgrading of the facilities or fields in a total amount that exceeds the amount of area hotel revenue attributable to the enhancements and upgrades.

(b) The municipality shall reimburse from the municipality's general fund any expenditure in excess of the amount of area hotel revenue attributable to the enhancements and upgrades to the municipality's hotel occupancy tax revenue fund.

Added by Acts 2005, 79th Leg., Ch. [1247](#), Sec. 2, eff. June 18, 2005.

For expiration of this section, see Subsection (f).

Sec. 351.1077. ALLOCATION OF REVENUE FOR THE ARTS FOR CERTAIN MUNICIPALITIES. (a) This section applies only to a municipality that:

- (1) has a population of more than 190,000;
- (2) is located in a county in which another municipality that has a population of more than one million is predominately located; and
- (3) issued bonds before January 1, 2007, for the construction of a municipal arts center payable from and secured by revenue from the tax imposed under this chapter.

(b) Notwithstanding any other provision of this chapter, a municipality to which this section applies may use an amount that is less than or equal to 15 percent of the hotel occupancy tax revenue collected by the municipality for the purposes provided by Section 351.101(a)(4).

(c) Notwithstanding any other provision of this chapter, a municipality to which this section applies may use an amount that is less than or equal to an additional \$1.6 million in hotel occupancy tax revenue collected by the municipality for the purposes provided by Section 351.101(a)(4). The \$1.6 million is in addition to the 15 percent amount allowed by Subsection (b).

(d) A municipality to which this section applies may not reduce the amount of revenue that an arts center that receives funds under Subsection (b) spends for a purpose described by Section 351.101(a)(3) to an amount that is less than the amount of revenue spent by the arts center for those purposes during the fiscal year of the arts center preceding the effective date of this section. If the municipality reduces the funding of the arts center under

Subsection (b), the art center's required funding amount for purposes described by Section 351.101(a)(3) is also reduced by a proportional amount.

(e) An arts center that receives funds under Subsection (b) shall include a website address that contains a link to area hotels and lodging options in the municipality on all materials produced for the purposes of Section 351.101(a)(3).

(f) This section expires September 1, 2022.

Added by Acts 2007, 80th Leg., R.S., Ch. 14, Sec. 1, eff. April 25, 2007.

Sec. 351.108. RECORDS. (a) A municipality shall maintain a record that accurately identifies the receipt and expenditure of all revenue derived from the tax imposed under this chapter.

(b) A municipality or entity that spends revenue derived from the tax imposed under this chapter shall, before making an expenditure, specify in a list each scheduled activity, program, or event that:

(1) is directly funded by the tax or has its administrative costs funded in whole or in part by the tax; and

(2) is directly enhancing and promoting tourism and the convention and hotel industry.

(c) If a municipality delegates to another entity the management or supervision of an activity or event funded by the tax imposed under this chapter, each entity that is ultimately funded by the tax shall, before making an expenditure, specify in a list each scheduled activity, program, or event that:

(1) is directly funded by the tax or has its administrative costs funded in whole or in part by the tax; and

(2) is directly enhancing and promoting tourism and the convention and hotel industry.

(d) The list required in Subsections (b) and (c) should be provided to the office of the city secretary or to the city secretary's designee.

(e) Subsections (b) and (c) do not prevent a municipality or funded entity from subsequently adding an activity, program, or event to the list required by those subsections if the activity, program, or event is directly enhancing and promoting tourism and the convention and hotel industry.

(f) This section does not prevent a municipality or entity receiving revenue from the tax imposed under this chapter from setting aside tax revenue in a designated reserve fund for use in supporting planned activities, future events, and facility improvements that are directly enhancing and promoting tourism and the convention and hotel industry.

(g) Subsections (b) and (c) do not apply if the funded entity already provides written information to the municipality that indicates which scheduled activities, programs, or events offered by the entity are directly enhancing and promoting tourism and the convention and hotel industry.

(h) Subsections (b) and (c) do not affect the level of local hotel occupancy tax funding that was approved at an election held pursuant to the initiative and referendum provisions of a city charter, and do not prohibit the use of local hotel occupancy tax for the encouragement, promotion, improvement, and application of the arts or for historical restoration and preservation as otherwise provided by this chapter.

Added by Acts 1999, 76th Leg., ch. 495, Sec. 2, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1467, Sec. 2.73, eff. Oct. 1, 1999. Renumbered from Sec. 351.107 and amended by Acts 2001, 77th Leg., ch. 636, Sec. 1, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(101), eff. Sept. 1, 2001.

Sec. 351.110. ALLOCATION OF REVENUE FOR CERTAIN TRANSPORTATION SYSTEMS.

(a) Notwithstanding any other provision of this chapter, a municipality may use the revenue derived from the tax imposed under this chapter for a transportation system to transport tourists from hotels in and near the municipality to:

- (1) the commercial center of the municipality;
- (2) a convention center in the municipality;
- (3) other hotels in or near the municipality; and
- (4) tourist attractions in or near the municipality.

(b) The transportation system that transports tourists as described by Subsection (a) may be:

- (1) owned and operated by the municipality; or
- (2) privately owned and operated but partially financed by the

municipality.

(c) This section does not authorize the use of revenue derived from the tax imposed under this chapter for a transportation system that serves the general public other than for a system that transports tourists as described by Subsection (a).

Added by Acts 2007, 80th Leg., R.S., Ch. [1231](#), Sec. 1, eff. June 15, 2007.

